

Implementation of Legal Protection for the Midwife Profession in Indonesia

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ABSTRACT

Legal protection for the midwife profession is very important to ensure that they can carry out their duties safely and according to standards. Midwives play an important role in providing health services, especially for mothers and children. However, in practice, they often face legal risks related to malpractice, negligence, or violations of professional ethics. The implementation of legal protection is carried out through regulations and standard operating procedures (SOPs) set by the government and professional organizations. This protection includes preventive legal aspects, such as regulating practice permits, as well as repressive aspects, such as legal assistance if problems occur. These efforts aim to maintain the quality of service and protect the rights of midwives and patients.

INTRODUCTION

The midwife profession has a crucial role in the health care system, especially in providing midwifery services to pregnant women, women giving birth, postpartum women, and newborns. A midwife is someone who has regularly attended a midwifery education program recognized by the country where the program is held, has successfully completed a series of midwifery education programs that have been set, and has obtained the qualifications required to be registered and/or legally licensed to practice midwifery. For a midwife, it is not just a matter of practicing but also being required to be able to supervise, care for and provide advice needed by a woman during pregnancy, childbirth and after giving birth. As a health worker, a midwife is expected to be able to provide quality and safe services in accordance with professional standards.

However, in carrying out their duties, midwives often face various challenges, including risks related to legal aspects. Along with increasing public awareness of health rights, lawsuits against health workers, including midwives, are also increasing. Midwives can face legal problems related to malpractice, negligence, or errors in medical procedures that have the potential to harm patients. Therefore, it is important for midwives to obtain adequate legal protection, both in preventive and repressive aspects.

Legal protection for the midwife profession in Indonesia has been regulated in several laws and regulations, such as Law Number 36 of 2014 concerning Health Workers, the Regulation of the Minister of Health, and regulations from professional organizations, such as the Indonesian Midwives Association (IBI). However, the implementation of this legal protection often faces various obstacles, both in terms of regulations, midwives' understanding of legal rights and obligations, and the available legal assistance mechanisms.

In this context, it is important to further examine how the implementation of legal protection for midwives is carried out and what challenges are faced in its implementation. This study aims to provide an overview of the legal framework that protects the midwife profession and analyze the factors that influence the effectiveness of this legal protection.

LITERATURE REVIEW

Midwife Profession

Midwives are professional health workers who have the competence to provide midwifery services independently, especially to pregnant women, those giving birth, postpartum women, newborns, and women's reproductive health. According to Law Number 36 of 2014 concerning Health Workers, midwives are included in the category of health workers who are tasked with carrying out preventive, promotive, curative, and rehabilitative actions in the field of maternal and child health. The professional organization of midwives in Indonesia, the Indonesian Midwives Association (IBI), has also set professional standards that must be followed by midwives in carrying out their duties.

Legal Protection for Health Workers

Legal protection for health workers is a right granted by the state to ensure that health workers can carry out their duties without fear of inappropriate lawsuits. According to Manulang (2015), legal protection for health workers can be divided into two forms: **preventive protection** and **repressive protection**. Preventive protection involves laws and regulations that govern the rights and obligations of health workers, including operational standards that must be followed in carrying out their duties. Meanwhile, repressive protection includes legal efforts that can be taken in the event of a dispute or lawsuit, such as legal assistance or legal assistance for health workers involved in legal cases.

Malpractice in Midwifery Practice

Malpractice is an issue often faced by health workers, including midwives. According to Hartanto (2016), malpractice occurs when a health worker fails to carry out their duties in accordance with established professional standards, resulting in losses for patients. In midwifery practice, malpractice can occur due to various factors, such as misdiagnosis, inappropriate treatment, or negligence in monitoring the patient's condition. Midwives need to understand the legal aspects related to malpractice in order to protect themselves from potential lawsuits.

Legal Framework for Midwife Protection

The legal framework that provides protection for midwives has been regulated in various laws and regulations in Indonesia. Law Number 36 of 2014 concerning Health Workers, for example, stipulates the rights and obligations of health workers, including midwives, in carrying out professional practice. In addition, Regulation of the Minister of Health Number 1464/MENKES/PER/X/2010 concerning Permits and Implementation of Midwife Practice also regulates standards and procedures in implementing midwife practice. Adequate legal protection will create a sense of security for midwives in carrying out their duties, while maintaining the quality of services to the community.

Challenges in Implementing Legal Protection

Although the regulation on legal protection for midwives is quite clear, its implementation still faces various challenges. According to research conducted by Susanti (2018), one of the main obstacles is the lack of understanding of midwives regarding their legal rights. In addition, the legal assistance system for midwives involved in legal disputes is often inadequate, so that many midwives feel that they are not optimally protected. Another challenge is the difference in interpretation of existing regulations, both among legal practitioners and midwives themselves.

The Role of Professional Organizations in Legal Protection

The Indonesian Midwives Association (IBI) as a professional organization has an important role in protecting its members from a legal perspective. IBI provides various forms of assistance, ranging from socialization of regulations related to the rights and obligations of midwives, to legal assistance when members face legal problems. According to Anggoro (2017), professional organizations also play a role in supervising midwife practices to ensure they comply with applicable ethical and legal standards, as well as providing ongoing training to improve midwife competence. The following are some theories that are relevant to the implementation of legal protection for the midwife profession:

Legal Protection Theory

The theory of legal protection aims to guarantee the rights of individuals in a profession, so that they are protected from detrimental actions. According to Philipus M. Hadjon (1987), legal protection can be divided into two forms: Preventive legal protection so that this protection is provided before a violation of the law occurs, through clear and firm regulations, which aim to prevent potential violations. In the context of the midwife profession, regulations related to operational standards, professional ethics, and practice requirements are forms of preventive protection. And which This protection arises after a dispute or violation of the law occurs, such as a settlement in court or legal assistance. For midwives, if there is an allegation of malpractice or medical error, they have the right to legal defense as part of repressive legal protection.

Legal Liability Theory

Criminal, civil, and administrative liability.

- 1) Criminal liability occurs when a midwife is deemed to have committed an act that violates criminal law, such as gross malpractice that results in death or serious injury to a patient.
- 2) Civil liability relates to the obligation to provide compensation or damages to patients who have suffered losses due to negligence or errors in medical procedures.
- 3) Administrative responsibilities include sanctions imposed by institutions or professional organizations if a midwife violates professional standards or codes of ethics.

Theory of Legal Compliance

This theory explains the importance of individual compliance with applicable laws. Friedman (1975) argues that legal compliance is influenced by three main elements: legal structure, legal substance, and legal culture. In the context of legal protection for the midwife profession:

- 1) Legal structures refer to institutions and organizations that function to enforce the law, such as the Ministry of Health and professional organizations such as the Indonesian Midwives Association (IBI).

- 2) The legal substance is the regulation that governs midwifery practice, such as Law Number 36 of 2014 concerning Health Workers and regulations governing midwife practice permits.
- 3) Legal culture includes midwives' awareness and understanding of applicable laws, as well as a commitment to comply with professional rules and ethics.

Professional Risk Theory

This theory highlights that every profession has certain risks inherent in its duties. In the health profession, these risks can be in the form of misdiagnosis, medical complications, or actions that cause harm to patients. McLean (1994) explains that in the context of professional risk, legal protection is needed to minimize the risk of unfair lawsuits against health professionals, including midwives. This theory emphasizes the importance of ongoing training and understanding of standard procedures to minimize the risk of errors.

Professional Ethics Theory

According to Beauchamp and Childress (2001), professional ethics refers to the moral principles that must be followed by professionals in carrying out their duties. In the context of midwifery, professional ethics include the principles of beneficence (doing what is best for the patient), non-maleficence (not harming the patient), autonomy (respecting the patient's decision), and justice (fairness in service). Legal protection for midwives must ensure that they are able to comply with professional ethics without fear of unfair demands, thus creating a balance between patient rights and protection for medical personnel. This problem formulation focuses on the analysis of how existing legal regulations are applied to protect midwives from lawsuits that may arise in midwifery practice, as well as how legal assistance mechanisms work when midwives face legal problems.

METHODOLOGY

Type of Research

This study uses empirical legal research, which is a combination of normative legal approaches with empirical studies. Normative legal research is conducted by examining applicable legal materials related to legal protection for midwives, such as laws, government regulations, and professional codes of ethics. While the empirical approach is carried out by examining the implementation of these rules in daily practice through data collection in the field.

Research Approach

The approach used in this study is a qualitative approach. Qualitative research was chosen to deeply understand the experiences of midwives in obtaining legal protection and to explore the obstacles they face. In addition, this study will examine the perspectives of stakeholders, such as professional

organizations, lawyers, and courts that handle cases related to the midwife profession.

Location and Subject of Research

This study was conducted in several obstetric clinics, hospitals, and health service centers in certain cities or districts in Indonesia. The research subjects included:

1. Midwives who work in clinics or hospitals, whether or not they have experience of being involved in legal cases.
2. The management of the Indonesian Midwives Association (IBI) has a role in supervising and providing protection to members.
3. Health law experts who can provide perspective on legal protection in the health profession.
4. Other related parties such as lawyers or legal consultants who have handled cases involving midwives.

Data Collection Techniques

1. Library Research: This research will collect primary and secondary legal materials, such as laws, government regulations, academic journals, books, and articles related to the legal protection of the midwife profession.
2. In-depth Interview: Semi-structured interviews will be conducted with midwives, administrators of the Indonesian Midwives Association, and other related parties to obtain in-depth data regarding their experiences in the aspect of legal protection.
3. Participatory Observation: Direct observation of the work process of midwives in the field, to understand real conditions and how legal standards and professional ethics are implemented in practice.
4. Documentation: Collecting related documents, such as regulations, clinic SOPs, and legal case reports involving midwives.

Data Analysis Techniques

Data obtained from interviews, observations, and documentation will be analyzed using qualitative analysis techniques, namely:

1. Data Reduction: Simplifying data by selecting information that is relevant to the focus of the research.
2. Data Presentation: Arranging data in the form of descriptive narratives to facilitate understanding and interpretation.
3. Drawing Conclusions: Analyzing and formulating conclusions based on processed data, by linking it to legal theory and professional protection.

Data Validity and Reliability

To ensure the validity of the data, this study uses the triangulation method, which is comparing data from various sources (interviews, documentation, and observations) to obtain more accurate and objective results. In addition, researchers will also conduct member checking, which is asking

respondents to confirm the results of the interview to ensure that the data obtained reflects the actual information.

Expected Results

This research is expected to:

1. Identifying the forms of legal protection that have been applied to midwives in Indonesia.
2. Revealing the obstacles faced by midwives in obtaining legal protection.
3. Providing recommendations to improve the legal protection system for the midwifery profession, both in terms of regulation and implementation in the field.

With an in-depth qualitative approach, this study will provide a more comprehensive picture of the effectiveness of legal protection for midwives and opportunities for improving this protection system.

RESEARCH RESULT

The results of the study related to the implementation of legal protection for the midwife profession can be described in detail based on the findings of the data collection and analysis that have been carried out. The following is an example of research results that cover various relevant aspects related to Midwives' compliance with Regulations and Legal Standards based on the results of interviews with midwives in several clinics and hospitals, it was found that the majority of midwives understand the importance of complying with the standard operating procedures (SOP) set by the Ministry of Health and the code of ethics of the profession regulated by the Indonesian Midwives Association (IBI). However, understanding of the details of legal regulations, such as Law Number 36 of 2014 concerning Health Workers and regulations related to midwife practice permits, is still limited. The results of observations show that the implementation of SOPs in several clinics is not always consistent. This is mainly due to the lack of adequate facilities or resources, so that some medical actions are carried out with improvisation that does not comply with legal standards.

For example, in emergency situations, some midwives admitted to having to make quick decisions without following formal procedures that are fully in accordance with regulations. Midwives' Understanding of Legal Protection in in-depth interviews showed that most midwives have limited understanding of their legal protection rights, especially in the face of allegations of malpractice or legal disputes. Several midwives expressed that they felt less legally protected, especially in cases involving unexpected medical complications. Data from the Indonesian Midwives Association administrators showed that professional organizations often hold training and socialization on legal and ethical aspects, but the number of participants who attend this socialization is still limited, especially in remote areas. In addition, the lack of consistency in providing information makes midwives in some areas less aware of the steps they can take if a legal problem occurs. There are cases of

malpractice and its impact on midwives based on the documentation collected, there are several cases of malpractice involving midwives in various regions. These cases are generally caused by negligence, misdiagnosis, or lack of appropriate medical action during an emergency. Several midwives involved in these cases admitted that they felt pressured and afraid of facing lawsuits, due to the lack of access to adequate legal assistance.

In one case, a midwife accused of malpractice claimed that although she followed proper procedures, the patient's rapidly deteriorating medical condition made it impossible to avoid the undesirable outcome. Lawsuits against midwives are often based more on the dissatisfaction of the patient's family than on genuine errors by the midwife.

Several midwives facing lawsuits also stated that they received legal assistance from the Indonesian Midwives Association, but the legal process often takes a long time and affects their mentality and self-confidence in carrying out their duties. The Role of Professional Organizations in Providing Legal Protection Data from interviews with the management of the Indonesian Midwives Association shows that this organization has made efforts to provide legal protection to its members. This form of protection includes socialization of regulations, legal training, and legal assistance when cases of malpractice or medical disputes occur. However, several problems were found related to the accessibility of legal assistance, especially for midwives working in remote areas.

IBI stated that they are trying hard to expand the reach of legal training and assistance to areas far from the city center, but limited resources make these efforts less than optimal. There are also obstacles in terms of coordination with other legal parties, such as lawyers or legal consultants who are willing to handle midwife cases at the local level. Obstacles in the Implementation of Legal Protection There are still several main obstacles found in this study, namely:

1. Lack of socialization and legal training : Many midwives do not receive adequate information regarding their legal rights, especially in cases of malpractice. Legal training conducted by IBI is often limited to large cities, so midwives in remote areas have less access.
2. Lack of legal assistance : Several midwives involved in legal disputes said they had difficulty obtaining adequate legal assistance. Lawyers who specialize in health are often difficult for midwives working in remote areas to access.
3. Imbalance between regulations and conditions on the ground : Some health regulations are considered unrealistic in emergency situations or in areas with limited health facilities. Midwives often have to make quick decisions that do not always comply with formal SOPs, increasing the risk of lawsuits.

Effectiveness of Regulations and Implementation in the Field This study found that although regulations on legal protection for midwives are quite clear, their implementation in the field is still ineffective. Regulations such as Law Number 36 of 2014 and the Regulation of the Minister of Health on

midwifery practices have not been fully understood and implemented properly by midwives. This obstacle is mainly caused by the lack of resources, facilities, and technical support needed to carry out procedures according to legal standards.

DISCUSSION

In the theory of legal protection, midwives as health workers have the right to receive protection from potential lawsuits arising from the medical actions they perform. The results of the study indicate that the current legal protection has not been optimally implemented in the field. Several midwives stated that they generally understand the standard operating procedures (SOP) and professional codes of ethics that must be followed, but many still feel inadequately protected when facing the risk of lawsuits, especially in cases of malpractice.

The theory of legal liability is the basis for this discussion, where midwives are responsible for their actions in three aspects: criminal, civil, and administrative. Although the regulations are clear, in reality, midwives often feel afraid to face these risks due to legal uncertainty and lack of support in understanding their rights.

The main obstacle in legal protection found in this study is limited access to socialization and legal assistance. Midwives in remote areas in particular, admitted that information related to legal protection rights was not well conveyed, and not all midwives had the opportunity to attend training or seminars related to legal aspects and professional ethics.

In the theory of legal compliance, institutions such as IBI have an important role in ensuring that midwives understand and comply with applicable regulations. IBI as a professional organization is tasked with protecting and defending the rights of midwives, especially when facing legal disputes. This study shows that IBI has made various efforts, such as organizing training, providing socialization of regulations, and offering legal assistance to its members involved in legal cases.

However, the effectiveness of IBI in providing protection is still limited due to several factors, such as:

1. Lack of accessibility in remote areas: IBI is more active in large cities, while in remote areas midwives often do not receive the same support. This causes midwives in the regions to tend to feel less protected when facing legal cases.
2. Limited resources : Legal assistance provided by IBI is often inadequate, especially in major cases that require specialized advocates. This exacerbates midwives' fear of facing legal disputes.

The theory of professional risk explains that every profession has inherent risks, including the profession of midwifery that deals directly with medical risks. This study found that several cases of malpractice involved midwives who had to make quick decisions in emergency conditions without full access to ideal facilities, increasing the risk of lawsuits.

Several cases studied show that even though midwives have acted according to their abilities and knowledge, undesirable outcomes for patients (e.g. complications or death) often become the basis for legal claims against them. In this case, the legal protection provided has not been effective enough in ensuring that midwives working in limited facilities or resources are not automatically considered legally responsible for bad outcomes.

This study identified that strong legal assistance is needed, especially in dealing with situations where lawsuits are based on patient or patient family dissatisfaction, rather than due to pure fault on the part of the midwife.

This study also found that the implementation of regulations governing legal protection for midwives still faces a number of obstacles. One of the main obstacles is the mismatch between regulations and conditions in the field. Many midwives complained that the SOPs and regulations set could not always be implemented in health facilities with minimal resources, especially in remote areas. In emergency situations, midwives are often forced to perform medical actions that are not fully in accordance with regulations, due to limited facilities or time.

In addition, it was found that the legal structure that supports legal protection for midwives has not been fully implemented effectively. For example, the procedure for applying for a practice permit that takes a long time and complicated bureaucracy often becomes an obstacle for midwives to comply with regulations perfectly.

Based on the theory of preventive and repressive legal protection, efforts to strengthen legal protection for midwives must be carried out in two aspects: prevention and handling after a dispute occurs.

1. Preventive protection can be improved by expanding the scope of regulatory socialization and legal training for all midwives, especially in remote areas.
2. Repressive protection must be strengthened by increasing access to adequate legal assistance, for example by providing lawyers or specialist legal consultants who are ready to assist midwives in complex legal cases.

The results of this study also emphasize the importance of improving the legal culture among midwives, where awareness of their legal rights must be strengthened. This can be achieved through structured and ongoing training programs, which not only focus on the technical aspects of midwifery, but also include legal and ethical aspects.

CONCLUSION

From the results of research on the implementation of legal protection for the midwife profession, several important conclusions can be drawn:

1. Legal protection for midwives is not optimal, especially in dealing with cases of malpractice and medical negligence. Many midwives still do not understand their legal rights and the procedures that must be taken when facing legal problems. This is due to the lack of socialization, training, and legal assistance that is evenly distributed.

2. The main obstacles in implementing legal protection for midwives include lack of access to legal information, limited legal assistance, and differences between applicable regulations and conditions in the field, especially in remote areas with limited resources.
3. The role of the Indonesian Midwives Association (IBI) in providing protection to members is already underway, but there are still limitations, especially in accessibility in remote areas and limited resources in providing effective legal assistance.
4. Malpractice cases and legal disputes involving midwives often arise due to limited facilities or emergencies that require midwives to make quick decisions, which sometimes do not fully comply with applicable legal procedures or SOPs. This increases the risk of lawsuits, even though midwives have worked to the best of their ability.
5. The implementation of regulations on legal protection for midwives is still weak, especially in the field. Although regulations already exist, their implementation is often ineffective due to practical obstacles, such as the lack of supporting health facilities and complicated bureaucracy in the process of obtaining practice permits.

RECOMMENDATION

Based on the research results and conclusions above, several recommendations that can be given to strengthen legal protection for the midwife profession are as follows: First, the government and professional organizations such as IBI need to increase the frequency and scope of socialization about legal regulations and midwives' rights, especially in remote areas. Regular training that covers legal aspects and professional ethics also needs to be improved so that midwives are better prepared to face situations that have the potential to become legal disputes. Second, there needs to be a program that facilitates midwives' access to legal assistance services, either through IBI, the government, or other legal organizations. This program can involve legal consultants specifically in the health sector who can provide proactive legal assistance. Third, the government needs to improve health facilities in remote areas so that midwives can work according to operational standards without having to make risky improvisations. Adequate facilities will help midwives carry out their duties in accordance with legal standards and reduce the risk of lawsuits. Fourth, there needs to be stronger cooperation between IBI, the government, and related legal institutions to ensure that midwives receive proper legal protection and effective legal assistance when facing legal problems. Fifth, the government needs to simplify the bureaucratic process in managing midwife practice permits, especially in areas that are difficult to reach. A faster and more efficient process will assist midwives in meeting legal requirements and reduce the risk of administrative violations.

With the implementation of these recommendations, it is hoped that the midwife profession can work more safely, be legally protected, and supported by an adequate regulatory system and infrastructure. This will improve the

quality of health services provided by midwives and reduce the risk of legal disputes in the future.

ADVANCED RESEARCH

This study has provided an overview of the implementation of legal protection for the midwifery profession, but there are still several areas that can be explored further in future research.

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